

Application Serial No. 10/849,183  
Amendment filed May 5, 2008  
Reply to Office Action mailed January 10, 2008.

### **REMARKS**

Reconsideration and allowance of the above-referenced application are respectfully requested.

#### **I. STATUS OF THE CLAIMS**

Claims 4 and 10 are cancelled herein without prejudice or disclaimer. Claims 1, 5, 9 and 11 are amended herein.

In view of the above, it is respectfully submitted that claims 1-3, 5-9, and 11 are currently pending and under consideration.

#### **II. REJECTION OF CLAIMS 10 and 11 UNDER 35 U.S.C. §101**

On page 2 of the Office Action, claims 10 and 11 are rejected under 35 U.S.C §101 as being directed to non-statutory subject matter.

Since Applicant has cancelled claim 10, the rejection of this claim is now moot.

Claim 11 is directed to a computer-readable recording medium, which is believed to fall within the statutory subject matter of 35 U.S.C 101. Accordingly, Applicant respectfully requests that the rejection of claim 11 under 35 U.S.C. §101 be withdrawn.

#### **III. REJECTION OF CLAIMS 1-11 UNDER 35 U.S.C. §103**

On page 3 of the Office Action, claims 1, 4-7, 9, 10 and 11 are rejected under 35 U.S.C §103(a) as being unpatentable over US Patent No. 6,798,950 to Suh et al. (hereinafter "Suh") in view of US Patent No. 5,666,154 to Hirabayashi (hereinafter "Hirabayashi"). Applicant respectfully traverses this rejection to the extent it might apply to the claims as amended.

Claim 1, as amended, recites a "wireless communication state judging means for judging a state of the wireless communication with the master station on the basis of a receive level of a predetermined signal transmitted from the master station." On page 4 of the Office Action, Suh, col.3, lines 5-67 and col.4, lines 1-25 is alleged to teach the feature of judging the wireless communication state on the basis of a receive level of a predetermined signal transmitted from the master station, which was originally recited in claim 4. The Office Action specifically points out that the cited portion of Suh shows that "[t]he base station (master station) periodically broadcasts one beacon signal per second to identify a wireless subscriber in a given area and

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the mobiles continue to listen for a new beacon."

Applicant respectfully submits that the cited portion of Suh does not disclose or teach "judging a state of the wireless communication with the master station *on the basis of a receive level of a predetermined signal transmitted from the master station*" as recited in claim 1 (emphasis added). Rather, the Suh reference merely recites that a first control means 13 determines whether the communication network is good or not, or whether there is little traffic or much traffic. Suh neither teaches, discloses, nor suggests a base station periodically broadcasting a beacon signal per second.

Hirabayashi, the other reference cited in the rejection, is directed to image coding techniques and does not teach anything about judging the state of wireless communication. As Hirabayashi fails to cure the deficiencies of Suh, independent claim 1, together with claims 5-7 dependent therefrom, is submitted to be patentable over the cited references.

Independent claims 9 and 11 recite language identical to claim 1, in relevant part. Applicant respectfully submits that these independent claims are also patentable over the cited references for the same reasons as offered above with respect to claim 1.

Claim 10 is cancelled herein. Accordingly, the rejection of claim 10 is moot.

Claims 2 and 3:

On page 5 of the Office Action, claims 2 and 3 are rejected under 35 U.S.C §103(a) as being unpatentable over Suh in view of Hirabayashi, and further in view of US Patent Application Publication No. 2002/0118756 A1 to Nakamura et al. (hereinafter "Nakamura").

Claims 2 and 3 depend from claim 1. Nakamura is directed to video coding method and data processing devices and is silent about judging the state of wireless communication. As Nakamura fails to cure the foregoing deficiencies of Suh and Hirabayashi, independent claim 1 is still patentable even if, arguendo, Nakamura is combined with Suh and Hirabayashi. Accordingly, dependent claims 2 and 3 are submitted to be patentable over the cited references for at least the reasons offered above with respect to their independent claim 1, in addition to other reasons.

Claim 8:

On page 9 of the Office Action, claim 8 is rejected under 35 U.S.C §103(a) as being unpatentable over Suh in view of Nakamura, and further in view of Hirabayashi. Applicant respectfully traverses this rejection.

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The Office Action relies upon the description in paragraphs 0050-0059 and FIG. 5 of Nakamura to allege disclosure of the claimed processing load measurement means and image quality decision means. The cited portions of Nakamura, however, merely describe monitoring the processing time of compression coding processing and does not include any disclosure of determining quality of images to be encoded, in accordance with processing load of wireless communication. That is, Nakamura fails to teach or suggest the "processing load measurement means for measuring processing load imposed on said wireless communication means" and "image quality decision means for determining quality of image to be encoded by said image encoding unit, in accordance with the processing load measured by said processing load measurement means" as recited in claim 8 (emphasis added).

Accordingly, Applicant respectfully submits that claim 8 is patentable over Suh, Nakamura, and Hirabayashi, separately and in combination, for at least the foregoing reasons.

In view of the above, it is respectfully submitted that the rejection is overcome.

#### **IV. CONCLUSION**

In view of the foregoing amendments and remarks, it is respectfully submitted that each of the claims patentably distinguishes over the prior art, and therefore defines allowable subject matter. A prompt and favorable reconsideration of the rejection along with an indication of allowability of all pending claims are therefore respectfully requested.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

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If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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